

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

FLINT RIVERKEEPER, INC., et al.,

Plaintiffs,

v.

SOUTHERN MILLS, INC., d/b/a  
TENCATE PROTECTIVE FABRICS,

Defendant.

CIVIL ACTION NO. 5:16-CV-00435

**November 15, 2017 Joint Status Report**

Pursuant to this Court's October 12, 2017 Order Granting Joint Motion to Stay Case, Plaintiffs Flint Riverkeeper, Inc., Jere M. Cox, Shelby Cox Moore, Granville C. Moore, and Sean P. Draime (collectively the "Plaintiffs") and Defendant Southern Mills, Inc. d/b/a TenCate Protective Fabrics, ("TenCate") jointly submit this status report regarding the Parties' good faith efforts to pursue a comprehensive resolution of this dispute. The Parties provide the following Joint Status Report:

1. As background, Plaintiffs filed a Complaint against TenCate alleging violations of the Clean Water Act and also asserting state law claims. On August 29 and 30, 2017 the Parties participated in a Rule 34 inspection, visiting the TenCate LAS fields and collected soil, surface water, and groundwater samples. Additionally, the parties completed a third day of sampling at the TenCate facility on September 15, 2017, under an extension of the Rule 34 inspection. After the receipt of sampling data, the Parties jointly moved this Court for a stay of the case to allow the Parties to conduct compromise discussions to resolve Plaintiffs' claims including discussions of

options for potential technical improvements to TenCate's pretreatment system and land application system ("LAS").

2. On October 13, 2017 the Parties, through counsel, had an initial meeting to discuss the goals and strategy for the collaboration of the party experts. The Parties agreed to have a "kick-off meeting" on October 27, 2017 where all of the Parties' experts would attend and begin discussions about technical improvements to TenCate's pretreatment system and LAS. The Parties also agreed on a tentative schedule and focus topics for meetings between Parties' experts from October 2017 through January 2018.

3. Prior to the initial kick-off meeting with all experts, TenCate provided Plaintiffs with a wastewater treatment evaluation proposal from Monique Latalladi, P.E. of Wood Group PLLC (f/k/a AMEC Foster Wheeler), TenCate's wastewater expert. Additionally, Plaintiffs provided TenCate with a proposal from Randall Grachek, P.E. of NewFields, Plaintiffs' wastewater expert, which proposed a wastewater treatability study. Moreover, counsel for both sides began preliminary discussions regarding resolution of Plaintiffs' claims for damages and attorneys' fees and expenses of litigation.

4. TenCate's experts prepared a master sampling data chart, which showed most of the detected constituents contained in the split samples collected by Plaintiffs and TenCate during the sampling events at the TenCate facility in August and September 2017. The master sampling chart was shared with the Plaintiffs in preparation for the kick-off meeting.

5. On October 27, 2017, Plaintiffs and TenCate held a "kick-off meeting" at the offices of Troutman Sanders LLP, which was attended by the Parties' counsel and experts (discussed below). Additionally, Gordon Rogers, the Flint Riverkeeper, attended the kick-off meeting along with Brad Reynolds, TenCate's corporate counsel. At the kick-off meeting, the

Parties' experts discussed their preliminary impressions of the operating and environmental conditions of the TenCate pretreatment system and LAS spray fields and shared initial thoughts on potential technical improvements.

a. The following experts attended the October 27, 2017 kick-off meeting on behalf of Plaintiffs:

- i. Barry Sulkin (Water quality expert)
- ii. Phil Freshley, M.S. (LandTec Southeast - soil scientist and LAS expert)
- iii. Randall Grachek, P.E. (Newfields – wastewater expert)^
- iv. Christopher Groves, Ph.D. (Western Kentucky University - hydrogeologist)\*
- v. Alan Wilson, Ph.D. (Auburn University – aquatic biologist)\*
- vi. Richard Blackburn, Ph.D. (University of Leeds – textile dyeing and finishing expert)\*

b. The following experts attended the October 27, 2017 kick-off meeting on behalf of TenCate:

- i. Wade Nutter, Ph.D. (Nutter and Associates – soil scientist and LAS expert)^
- ii. David Huff, P.G. (Nutter and Associates – soil scientist and LAS expert)^
- iii. Monique Latalladi, P.E. (Wood Group PLLC f/k/a AMEC Foster Wheeler – wastewater expert)

---

\* *Attended by phone due to location*

^ *A copy of the curriculum vitae is attached hereto as Exhibit A*

iv. Larry Neal, P.E. (Wood Group PLLC f/k/a AMEC Foster Wheeler – wastewater expert)

6. Monique Latalladi and William Malyk, TenCate's wastewater experts, conducted a follow-up conference call regarding the groundwater and surface water samples previously collected at the TenCate facility in August and September 2017. Based on the conference call, Grachek and Latalladi/Malyk agreed on conducting additional sampling of the TenCate facility's influent and effluent as the initial steps of a waste treatability study. Grachek and Latalladi/Malyk agreed on sampling locations, sampling methods, and a list of constituents the sampling would assess. Grachek and Latalladi/Malyk were unable to reach a consensus regarding whether to sample for three additional groups of constituents and requested additional guidance from counsel.

7. Likewise, following the initial kick-off meeting, Phil Freshley (Plaintiffs' soil scientist and LAS expert) met with Wade Nutter and David Huff (TenCate's soil scientists and LAS experts) on October 31, 2017 to discuss the soil sampling data already collected from the TenCate LAS spray fields during the August 2017 sampling. During their meeting, these experts discussed the need for additional sampling to provide a clearer picture of the hydraulic capacity of the LAS. Additionally, Nutter and Huff shared details about planned system improvements for the LAS fields, including a system for injecting gypsum into effluent before it is applied to the fields and application of additional soil amendments to maintain vegetation on the fields. Freshley, Nutter, and Huff agreed to table discussion of the three aforementioned additional groups of constituents pending additional guidance from other experts and counsel. Following their meeting, Nutter and Huff provided Freshley a written memorandum proposing additional soil permeability, micronutrient, and forage grass sampling and outlining the system improvements discussed at the meeting. Freshly also provided a written memorandum of his opinions regarding this sampling

and improvements and next steps to address the question of the current assimilative capacity of the LAS and future land needs.

8. On November 10, 2017, Plaintiffs' and TenCate had a second meeting at the Southern Environmental Law Center offices, which focused on finalizing the proposed wastewater and soil sampling at the TenCate facility. The meeting was attended by the Parties' counsel, Gordon Rogers\*, the Flint Riverkeeper, Brad Reynolds, TenCate's corporate counsel, as well as Plaintiffs' experts Grachek, Freshley\* and Blackburn\*. TenCate's experts Huff, Nutter\*, and Latalladi\* also attended. The primary focus of the meeting was finalizing the details of the additional wastewater and soil sampling proposed by the Parties' experts. The Parties agreed on initial strategies for addressing sampling of the three aforementioned categories of constituents, on which Grachek and Latalladi/Malyk could not agree. TenCate agreed to provide Plaintiffs' experts with certain information on plant production/treatment pond influent cycles, an updated version of document TENCATE00025449, and pond sodium concentrations before the additional wastewater sampling to help ensure that the sampling is representative of plant wastewater production. Additionally, Freshley, Nutter, and Huff agreed on a plan for conducting initial baseline infiltrometer/soil permeability testing concurrently with the wastewater sampling and prior to operation of the gypsum injection system. This later field sampling will also be informed by the results of the wastewater data generated by Grachek and Latalladi/Malyk. The Parties also discussed a proposal to potentially address TenCate's use of per-fluorinated compounds.

9. The Parties anticipate addressing the following tasks before the next Joint Status report, which is due to the Court on December 15, 2017: the parties will review and try to reach consensus on a method for screening for "dye waste" constituents to be included in the wastewater

---

\* Attended by phone

sampling; discuss sampling locations for the initial baseline infiltration testing; exchange information on plant production/treatment pond influent cycles, an updated version of document TENCATE00025449, and pond sodium concentrations before the week of December 4, 2017; perform additional wastewater sampling the week of December 4, 2017; discuss further the potential proposal related to per-fluorinated compounds; arrange to have the Plaintiff homeowners' properties appraised; and have a third meeting by teleconference on December 1, 2017.

WHEREFORE the Parties jointly submit this status report as required by the Court's October 12, 2017 Order and note that these disclosures are in the nature of compromise communications and remain inadmissible by any party for any purpose other than as directed by the Court.

/s/ William M. Droze

William M. Droze  
Southern Mills, Inc. d/b/a TenCate  
Protective Fabrics

/s/ Donald D.J. Stack

Donald D. J. Stack  
Flint Riverkeeper, Inc., Jere Michael  
Cox, Shelby Cox Moore, Granville Cliff  
Moore, and Sean P. Draime

/s/ R. Hutton Brown

R. Hutton Brown  
Flint Riverkeeper, Inc.

Dated: November 15, 2017

Respectfully submitted,

TROUTMAN SANDERS LLP

/s/ William M. Droze

William M. Droze (Ga. Bar No. 231039)  
Gregory W. Blount (Ga. Bar No. 064375)  
Justin T. Wong (Ga. Bar No. 969504)

600 Peachtree Street, NE, Suite 5200  
Atlanta, Georgia 30308-2216  
Phone: (404) 885-3000  
Facsimile: (404) 885-3900

I HEREBY CERTIFY that on November 15, 2017, the counsel indicated below were served by filing through the Court's CM/ECF electronic filing system:

R. Hutton Brown  
April Lipscomb  
SOUTHERN ENVIRONMENTAL LAW CENTER  
[hbrown@selcga.org](mailto:hbrown@selcga.org)  
[alipscomb@selcga.org](mailto:alipscomb@selcga.org)  
Counsel for Plaintiff Flint Riverkeeper, Inc.

Donald D.J. Stack  
Tyler J. Sniff  
STACK & ASSOCIATES, PC  
[dstack@stack-environlaw.com](mailto:dstack@stack-environlaw.com)  
[tsniff@stack-envirolaw.com](mailto:tsniff@stack-envirolaw.com)  
Counsel for Plaintiffs Flint Riverkeeper, Inc., Jere Michael Cox,  
Selby Cox Moore, Granville Cliff Moore, and Sean P. Draime

/s/ William M. Droze  
WILLIAM M. DROZE  
Georgia Bar Number 231039